

GAHC010294112023



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : Crl.Rev.P./575/2023**

HANIF ALI  
S/O ISMAIL HUSSAIN  
VILL- LOTRIA  
P.S. BOKO  
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR F HAQUE**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**04.01.2024**

Heard Mr. F. Haque, learned counsel for the petitioner. Also heard Mr. K.K. Parasar, learned Additional Public Prosecutor, Assam.

This application under Section 397/401 read with Section 482 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Mr. Hanif

Ali, impugning the order dated 08.12.2023, passed by the learned Additional Chief Judicial Magistrate, Kamrup at Amingaon, in Chhaygaon P.S. Case No. 242/2023, whereby, the prayer for Zimma of the boat seized in connection with this case to the present petitioner was rejected.

Learned counsel for the petitioner has submitted that the facts relevant for adjudication of this instant revision petition is that on 19.05.2023, one Biswajyoti Das, S.I. of Police, had lodged an FIR before the Officer-In-Charge of Chhaygaon Police Station, *inter-alia*, alleging that on receipt of an information through reliable sources that some cattle smugglers are transporting cattle through a machine boat in Brahmaputra river at Baghmara, an ambush was laid to intercept the said machine boat and at about 8:00 PM, the said machine boat was intercepted loaded with some cattle (49 numbers of cattle and 3 buffaloes). On seeing the police the smugglers fled away and the said machine boat was seized by the police.

Learned counsel for the petitioner has submitted that by order dated 03.06.2023, the learned Additional Chief Judicial Magistrate, Kamrup at Amingaon directed the Investigating Officer to give the Zimma of the seized boat to the lawful owners after executing a bond equal to the amount of the price of the seized boat.

It is further submitted by the learned counsel for the petitioner that the petitioner accordingly approached the Investigating Officer. However, after verifying the documents, the Investigating Officer did not hand over the Zimma of the seized boat to the petitioner and thereafter, the petitioner approached the learned Additional Chief Judicial Magistrate, Kamrup, Amingaon and by order dated 08.12.2023, which is impugned in this revision petition, the learned Additional Chief Judicial Magistrate, Kamrup, Amingaon also rejected the Zimma

on the ground that the documents produced by the petitioner for claiming his ownership does not tally with the documents with the Inland Water Transport Department and accordingly, the prayer for Zimma was rejected.

Learned counsel for the petitioner has submitted that after rejection of the said order, the petitioner collected the certificate of registration of the steam/motor vessels issued by the Registering Authority, i.e. Inland Water Transport Department.

Learned counsel for the petitioner has submitted that the said document of certificate of registration is in the name of the present petitioner and therefore, he prays for allowing the Zimma of the seized motor vessel on the basis of the said document. However, learned Additional Public Prosecutor submits that the Court of learned Additional Chief Judicial Magistrate, Kamrup, Amingaon rightly rejected the prayer of Zimma of the petitioner as he failed to produce any genuine document before the said Court and therefore, there is no error in the order which has been impugned in this revision petition and the document on which the petitioner is now relying was not produced before the learned Additional Chief Judicial Magistrate, Kamrup, Amingaon.

In view of the submissions made by learned counsel for the parties as well as in view of the facts and circumstances of this case, this Court does not find any error in the impugned order to justify any interference in the same by this Court in this revision petition. However, the petitioner is given liberty to approach the learned Additional Chief Judicial Magistrate, Kamrup, Amingaon once again and produce the certificate of registration of the steam/motor vessel which is annexed along with this revision petition as Annexure-5 so that his prayer for Zimma of the vehicle may be considered afresh by the learned Court below.

With the above observations, the instant Criminal Revision Petition is hereby disposed of.

**JUDGE**

**Comparing Assistant**